## UNITED STATES DEPARTMENT OF AGRICULTURE OALJ/HCO BEFORE THE SECRETARY OF AGRICULTURE NOV 25 P 4: 06

In re:	) P. & S. Docket No. D-02-002	EC
Dennis D. Osburn	)	
Respondent	) Decision	
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This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. §181 et. seq.) by a complaint filed by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the Respondent willfully violated the Act and the regulations issued thereunder.

This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. §1.138).

The Respondent admits the jurisdictional allegations in paragraph I of the complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The Complainant agrees to the entry of this decision.

## Findings of Fact

- 1. Dennis D. Osburn, hereinafter referred to as "Respondent," is an individual whose mailing address is P.O. Box 5558, Vienna, West Virginia 26105-1573.
  - 2. The Respondent is, and at all times material herein was:

- (a) Engaged in the business of a dealer buying and selling livestock in commerce for his own account;
- (b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce, and as a market agency buying on commission.

## **Conclusions**

The Respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

## Order

Respondent Dennis D. Osburn, and his agents and employees, directly or through any corporate or other device, in connection with his activities subject to the Packers and Stockyards Act, shall cease and desist from:

- 1. Failing to pay the full purchase price of livestock;
- 2. Failing to pay, when due, the full purchase price of livestock;
- 3. Issuing checks in payment for livestock purchases without maintaining sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented; and
- 4. Engaging in any activity subject to the Act while Respondent's financial condition does not meet the requirements of the Act.

Respondent Dennis D. Osburn is hereby suspended as a registrant under the Act for a period of five (5) years, and thereafter until the insolvency is corrected. Provided, however, that upon application to the Packers and Stockyards Programs a supplemental order terminating the suspension may be issued at any time after the expiration of 230 days upon demonstration by

Respondent that all unpaid livestock sellers identified in the complaint have been paid in full and upon demonstration that Respondent is no longer insolvent; and provided further that this order may be modified upon application to the Packers and Stockyards Programs to permit the salaried employment of Respondent by another registrant or packer after the expiration of the initial 230 days and upon demonstration of circumstances warranting modification of the order.

The provisions of this order shall become effective on the sixth day after service of this order on the Respondent.

Copies of this decision shall be served upon the parties.

Dennis D. Osburn

David A. Richman

Attorney for Complainant

Issued this 25th day of November, 2003

Administrative Law Judge